

Division 3. Air Resources Board

Chapter 5. Standards for Motor Vehicle Fuels

Article 1. Standards for Gasoline

Subarticle 1. Gasoline Standards That Became Applicable Before 1996

§ 2259. Exemptions for Motor Vehicle Fuels Used in Test Programs.

(a)(1) Any person may request an exemption for fuel used in a test program by submitting an application to the executive officer that includes all the information listed in paragraphs (c), (d), (e), and (f) of this section.

(2) For the purpose of this section, "fuel requirement" means any requirement for a motor vehicle fuel established in Chapter 5 (Standards for Motor Vehicle Fuels) of Division 3, Title 13, California Code of Regulations.

(3) For the purpose of this section, "exemption" means an exemption from one or more fuel requirements that is granted by the executive officer for the purpose of research, motor vehicle or engine emissions certification, fuel certification or registration, or fuel additive certification or registration.

(4) For the purpose of this section, "test track" means a roadway that is closed to the general public, is used to test motor vehicles or motor vehicle fuels, and is not used to transport persons or property.

(b)(1) In order for an exemption to be granted, the applicant must demonstrate the following:

(A) The proposed test program has a purpose that constitutes an appropriate basis for exemption;

(B) The proposed test program necessitates the granting of an exemption;

(C) The proposed test program exhibits reasonableness in scope; and

(D) The proposed test program exhibits a degree of control consistent with the purpose of the program and the state board's monitoring requirements.

(2) Paragraphs (c), (d), (e), and (f) of this section describe what constitutes a sufficient demonstration for each of the four elements in paragraphs (b)(1)(A) through (D) of this section.

(3) Within 20 days of receipt of an application for an exemption, the executive officer shall advise the applicant in writing either that the application is complete or that specified additional information is required to make it complete. Within 15 days of submittal of additional information, the executive officer shall advise the applicant in writing either that the information submitted makes the application complete or that specified additional information is still required to make it complete. Within 20 days after the application is deemed complete, the executive officer shall grant or deny the application. Any denial shall be accompanied by a written statement of the reasons for denial.

(c) An appropriate purpose is limited to research, motor vehicle or engine emissions certification, fuel certification or registration, or fuel additive certification or registration. The exemption application must include a concise statement of the purpose(s) of the proposed test program.

(d) With respect to the necessity for an exemption, the applicant must identify each specific fuel requirement that would be violated by the test program, and demonstrate an inability to achieve the stated purpose in a practical manner without violating the identified fuel requirement(s). If any site of the proposed test program is located in an area that is classified as a nonattainment area for purposes of a state or federal ambient air quality standard, and the fuel requirement that would be violated is designed to reduce emissions of the pollutant, or a precursor of the pollutant, for which the area is classified as a nonattainment area, the applicant must also demonstrate a practical inability to perform the test program in an area that is in attainment with respect to that pollutant.

(e) With respect to reasonableness, a test program must exhibit a duration of reasonable length, affect a reasonable number of vehicles or engines, and utilize a reasonable amount of noncomplying fuel. In this regard, the application for exemption must include:

(1) An estimate of the program's duration;

(2) An estimate of the maximum number of vehicles or engines involved in the program;

(3) The time or mileage duration of the test program;

(4) The range of the noncomplying properties of the fuel expected to be used in the program, and

(5) The quantity of fuel which exceeds the applicable standard that is expected to be used in the program.

(f) With respect to control, a program must be capable of affording the executive officer a monitoring capability. At a minimum, the application for exemption must also include:

(1) The technical nature of the test program;

(2) The site(s) of the program (including the street address, city, county, and zip code);

(3) The manner in which information on vehicles and engines used in the program will be recorded and made available to the executive officer;

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- (4) The manner in which results of the program will be recorded and made available to the executive officer;
- (5) The manner in which information on the fuel used in the test program (including noncomplying properties, name, address, telephone number, and contact person of supplier, quantity, date received from the supplier) will be recorded and made available to the executive officer;
- (6) The manner in which the distribution pumps will be labeled to insure proper use of the test fuel;
- (7) The name, address, telephone number and title of the person(s) in the organization requesting an exemption from whom further information on the request may be obtained; and
- (8) The name, address, telephone number and title of the person(s) in the organization requesting an exemption who will be responsible for recording and making the information specified in paragraphs (f)(3), (4), and (5) of this section available to the executive officer and the location in which such information will be maintained.
- (g) An exemption shall be granted by the executive officer upon a demonstration that the requirements of paragraphs (b), (c), (d), (e) and (f) of this section have been met. The exemption will be granted in the form of memorandum of exemption signed by the applicant and the executive officer (or his delegate), which shall include such terms and conditions as the executive officer determines necessary to monitor the exemption and to carry out the purpose of this section. Any violation of such term or condition shall cause the exemption to be void.
- (h) No fuel requirement shall apply to fuel used for an engine or vehicle dynamometer test, or to fuel used in the testing of motor vehicles or motor vehicle fuels on a test track.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

REFERENCE